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In re Patent No. 7,590,685 : DECISION ON REQUEST
Palmeri et al. : FOR
Issue Date: Sep. 15, 2009 : RECONSIDERATION OF
Application No. 10/820,650 : PATENT TERM ADJUSTMENT
Filed: Apr. 7, 2004 : and
Atty Docket No. : NOTICE OF INTENT TO ISSUE
ODVFP006 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 10, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-seven (1067) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred twenty-seven (1427) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 789 days, not 102 days. This period begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), April 8, 2007, and ends on June 4, 2009, the day before the date the RCE was filed, or 789 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Further, 327 (304 + 23) days of the "A" period overlap with the "B" period.¹ Thus, the additional non-overlapping period is 462 (789 - 327) days.

¹ The 304 day period from April 8, 2007 to the mailing of the first Office action on February 5, 2008, and the 23 day period from October 6, 2008, the day after the date four months after mailing of a reply to an Office action, to October 28, 2008, the date an Office action was mailed in response to the reply, overlap with the "B" period.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred twenty-seven (1427) days**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,590,685 B2

DATED : September 15, 2009

DRAFT

INVENTOR(S) : Palmeri et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 965 days.

Delete the phrase "by 965 days" and insert – by 1427 days--